

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO**

UNITED STATES OF AMERICA, et al.,	CASE NO.: C-1-02-107
Plaintiffs,	JUDGE S. ARTHUR SPIEGEL MAGISTRATE HOGAN
v.	RESPONSE TO BRUCE AND CHERYL PATANELLI REQUESTS FOR REVIEW
BOARD OF HAMILTON COUNTY COMMISSIONERS, et al.	:
Defendants.	:

The City and County Defendants ("MSD") respond to Mr. And Mrs. Cheryl Patanelli's Motion for Review (Doc #201) as follows:

1. Mr. And Mrs. Patanelli submitted a water in basement claim on June 12, 2008.
2. The MSD investigated Radtke's claim through the City of Cincinnati claims department. The Water-in-Basement Claims Administrator is Dotty Carman.
3. Ms. Carman denied the water in the basement because it was determined the back-up was caused because the owner's lateral was disconnected from the sewer because the utility pole erected in the right of way crushed the lateral near the tap. Because MSD had no control over the pole placement, MSD is not responsible. (Attached Complaint MSD Form and maps demonstrating where the break occurred and location of the right-of-way attaches as exhibits A-D)

4. MSD is will repair or reconstruction of the part of a house lateral in the right of way that fails because of a broken or collapsed pipe pursuant to section 1207 of the Rules and Regulations of MSD.

5. Mr. And Mr. Patanelli own the property serviced by the lateral and as such is responsible for the lateral's maintenance. Moreover, the collapsed because of a utility pole, the property party to initiate a claim against it Duke Energy and not the City of Cincinnati.

Accordingly, the MSD defendants request that the Court separately review the claimed damages, and that thereafter the Court affirm City's determination.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2008 a true and accurate copy of the foregoing Response was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be

mailed to those parties who are not served via the Court's electronic filing system.

Parties may access this filing through the Court's system.

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